

LAW OFFICES OF
MONTFORT, HEALY, MCGUIRE & SALLEY LLP

840 FRANKLIN AVENUE
P.O. Box 7677
GARDEN CITY, NEW YORK, 11530-7677

DONALD S. NEUMANN, JR.
JAMES M. MURPHY
CHRISTOPHER T. CAFARO
JEFFREY D. PRESENT
MICHAEL J. BORANIAN

COUNSEL
MICHAEL A. BARANOWICZ
FRANK J. CAFARO
PHILIP J. CATAPANO
JOHN KENNETH RODE

TELEPHONE: (516) 747-4082
TELECOPIER: (516) 746-0748

e-mail: montfort@mhms-law.com
url: www.mhms-law.com

JOHN R. AQUARO
MICHAEL K. CHIN
SUSAN H. DEMPSEY
TIMOTHY A. JENKS

HUGH J. LARKIN
JENNIFER J. MALDONADO
ROBERT J. PAPE, JR.
JOHN W. PERSONS

July 12, 2018

Hon. Steven I. Locke, Magistrate Judge
United States District Court
Eastern District of New York
Long Island Courthouse
100 Federal Plaza
Central Islip, NY 11722

Re: Howell v. Nassau
Index No.: 2:15-cv-04275(JFB)(SJL)
Our File No.: 01-23441

Dear Magistrate Judge Locke:

Enclosed herewith please find two Proposed Orders regarding the transfer of the incarcerated plaintiff Kyle Howell to Nassau County for purposes of conducting an independent medical examination. I have spoken with Charles Quackenbush, Deputy General Counsel at the Department of Corrections who advised that the examination of the plaintiff could be accomplished by the DOC doing an internal transfer of the plaintiff from Greene Correctional Facility to Downstate Correctional Facility and thereafter plaintiff could be transported to and from Long Island on the same day. The expense involved in transporting the plaintiff for the examination would be the cost of travel and probably one full day salary for the two correction officers who accompany the plaintiff on the roundtrip from Fishkill to Glen Cove for the examination.

In light of that suggestion, I also consulted with Thomas S. Lieber, Assistant Director of Classification and Movement for New York State Department of Corrections and Community Supervision, who provided guidance in the drafting of Proposed Order #1 submitted herewith. However, in light of the fact that the Court Order dated May 3, 2018 stated that plaintiff was to be transported to Nassau County Correctional Facility for the purposes of the medical examination, I have proposed Order #2 if that is the Court's preference. However, clearly, it is the defendants' preference for the Proposed Order #1 to be signed and Proposed Order #2 to be disregarded.

Howell v. Nassau
July 12, 2018
Page Two

Very truly yours,

MONTFORT, HEALY, McGUIRE & SALLEY LLP


James M. Murphy (516-6600)

JMM/dm

enc.

cc: *Bruce Barket, Esq.* – bbarket@barketmarion.com
Barket, Epstein & Kearon, LLP
Attorneys for Plaintiff - *Kyle Howell*
666 Old Country Road, 7th Floor
Garden City, New York 11530
(516) 745-1500

Joseph F. Pusateri, Esq.
Rebore, Thorpe & Pisarello, P.C.
Attorneys for Defendant - *P.O. Gomez*
500 Bi-County Boulevard - Suite 214N
Farmingdale, New York 11735
(631) 249-6600

John Hanley, Esq.
County Attorney's Office
Attorney for Defendant - *County of Nassau*
One West Street
Mineola, New York 11501
(516) 571-3014

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK-----X
KYLE HOWELL,

Plaintiff(s),

-against-

THE COUNTY OF NASSAU, POLICE OFFICER
GOMEZ AND POLICE OFFICER LOGUIDICE,Defendant(s).
-----X

Index No.:

2:15-cv-4275(JFB)(SJL)

PROPOSED ORDER #1

UPON the application of defendants for leave to have a medical examination taken of plaintiff KYLE HOWELL, an inmate, and the Court having granted leave for said examination pursuant to Rule 35 of the Federal Rules of Civil Procedure,

WHEREAS, KYLE HOWELL, DIN #17R1407 is confined at Greene Correctional Facility and his attendance is required for a medical examination in connection with the above captioned pending lawsuit,

IT IS HEREBY ORDERED: (1) that the Superintendent, or other official in charge of the Greene Correctional Facility located at 165 Plank Road, Coxsackie, New York, transfer plaintiff KYLE HOWELL, Inmate Number 17R1407, to the Downstate Correctional Facility or other appropriate facility as close to Long Island as possible so that plaintiff may be transported to Long Island to be examined by a physician(s) on July 30, 2018 at 11:00 a.m., at the office of Dr. Philip Bonanno, 70 Glen Street, Suite 380, Glen Cove, New York 11542, and for so long thereafter until the examination is completed; (2) that upon completion of the medical examination, inmate KYLE HOWELL be returned from whence he came; and (3) that all expenses associated with the transfer, including, but not limited to transport and security, are to be borne by the litigants, with the costs to be sent directly to Greene Correctional Facility.

Dated: Central Islip, New York
July _____, 2018

Hon. Steven I. Locke
U.S. District/Magistrate Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK-----X
KYLE HOWELL,

Plaintiff(s),

-against-

THE COUNTY OF NASSAU, POLICE OFFICER
GOMEZ AND POLICE OFFICER LOGUIDICE,Defendant(s).
-----X

Index No.:

2:15-cv-4275(JFB)(SJL)

PROPOSED ORDER #2

UPON the application of defendants for leave to have a medical examination taken of plaintiff KYLE HOWELL, an inmate, and the Court having granted leave for said examination pursuant to Rule 35 of the Federal Rules of Civil Procedure,

WHEREAS, KYLE HOWELL, DIN #17R1407 is confined at Greene Correctional Facility and his attendance is required for a medical examination in connection with the above captioned pending lawsuit,

IT IS HEREBY ORDERED: (1) the Superintendent, or other official in charge of the Greene Correctional Facility located at 165 Plank Road, Coxsackie, New York, transfer plaintiff KYLE HOWELL, Inmate Number 17R1407, to Nassau County Correctional Facility so that plaintiff may be examined by a physician(s) on July 30, 2018 at 11:00 a.m., at the office of Dr. Philip Bonanno, 70 Glen Street, Suite 380, Glen Cove, New York 11542, and for so long thereafter until the examination is completed; (2) that inmate KYLE HOWELL appear in such place as designated by the Superintendent or other official in charge of Greene Correctional Facility so that he may submit to a physical/medical examination; and (3) that all expenses associated with the transfer, including, but not limited to transport and security, are to be borne by the litigants, with the costs to be sent directly to Greene Correctional Facility.

Dated: Central Islip, New York
July _____, 2018

Hon. Steven I. Locke
U.S. District/Magistrate Judge